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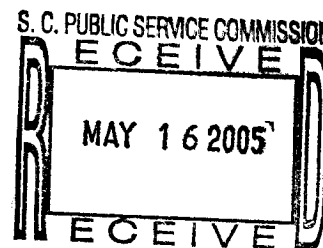
Coleman F. Buckhouse, MD

## OFFICE OF GENERAL COUNSEL

TEL.:(803)898-3349 FAX:(803)898-3367

May 13, 2005

The Honorable Charles L. A. Terreni  
Chief Clerk/Administrator  
SC Public Service Commission  
P.O. Drawer 11649  
Columbia, SC 29211



**Re: Docket No.: 2005-110-WS**

**Petition of the Office of Regulatory Staff to Request Forfeiture of the Bond and to Request Authority to Petition the Circuit Court for Appointment of a Receiver**


Dear Mr. Terreni:

Please find enclosed for filing the original and ten (10) copies of the South Carolina Department of Health and Environmental Control's *Petition to Intervene* along with a *Certificate of Service* in the above-referenced case.

Please date-stamp the one extra copy for our office and return in the enclosed self-addressed stamped envelope provided.

By copy of this letter, I am serving the necessary parties. Thank you for your assistance in this matter.

Sincerely,

  
Jessica J.O. King, Esq.  
Attorney for DHEC

Enclosures

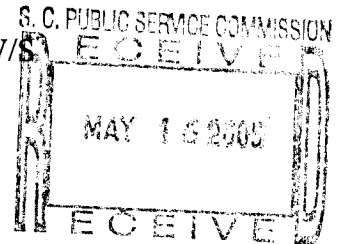
cc: Benjamin P. Mustian, Esq.  
C. Lessie Hammonds, Esq.  
Louis H. Lang, Esq.  
D. Reese Williams, IV, President

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION**  
**OF SOUTH CAROLINA**

IN RE: Petition of the Office of Regulatory )  
Staff to Request Forfeiture of the Bond )  
and to Request Authority to Petition the )  
Circuit Court for Appointment of a )  
Receiver )

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Docket No.: 2005-110-W/S



**PETITION OF THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND  
ENVIRONMENTAL CONTROL TO INTERVENE**

**NOTICE OF MOTION**

In accordance with 26 S.C. Code Ann. Regs. 103-836 (Supp. 2004), Petitioner South Carolina Department of Health and Environmental Control ("DHEC" or "the Department") herein petitions to intervene in the formal proceedings in the above captioned action on the grounds set forth below.

**A. The facts from which the nature of the Department's interests can be determined:**

The Office of Regulatory Staff filed a petition to request forfeiture of the Piney Grove Utilities, Inc. ("Piney Grove") bond and to request authority to petition the Circuit Court for appointment of a receiver, seeking, among other things, for the Public Service Commission (the "Commission") to: (1) issue an order for Piney Grove to show cause why it should not be required to take immediate steps to provide adequate and proper service to its customers; (2) declare the forfeiture of Piney Grove's bond on file; and (3) seek appointment of a receiver in accordance with its powers under S.C. Code Ann. §58-5-730. The Department is the state regulatory agency with oversight and enforcement responsibilities over Piney Grove's compliance with environmental regulations. As of March 1, 2005, Piney Grove was operating

the Lloydwood Subdivision wastewater treatment facility (“WWTF”) without a South Carolina certified operator of the appropriate grade (or any operator), as required by the National Pollutant Discharge Elimination System (“NPDES”) Permit; did not have a South Carolina approved laboratory to analyze all permitted requirements; and, had not submitted its monthly discharge monitoring reports (DMR) for December 2004, January 2005 and February 2005. Also, there was no chlorine at the facility, which is required for the disinfection of the WWTF’s effluent.

On or about April 7, 2005, DHEC staff performed a Facility Evaluation Inspection of the WWTF. The WWTF was rated unsatisfactory because DHEC staff was denied entry. DHEC staff collected a fecal coliform bacteria sample from the receiving stream immediately after the discharge. Sample results indicate fecal coliform bacteria level of thirty thousand (30,000) colonies per one hundred (100) milliliters of sample. Fecal coliform bacteria counts of this level indicate the presence of untreated wastewater in the receiving stream.

On April 14, 2005, DHEC issued an emergency order to Piney Grove recounting these and other violations of the NPDES permit and requiring them to immediately hire a South Carolina certified operator of appropriate grade and to come into compliance with the requirements of the facility’s NPDES permit. Piney Grove failed to comply or even to respond; therefore, on April 22, 2005, DHEC filed for injunctive relief in Lexington County Circuit Court seeking authority to hire an operator with its emergency funds to bring the WWTF into compliance with the NPDES permit. Judge Westbrook issued an order after notice and hearing allowing the Department seven (7) days to operate the facility while Piney Grove attempted to address the emergency order issues. After the original seven (7) days, the order was extended for another seven (7) day period. On May 6, 2005, Piney Grove and the Department entered into an order before the court agreeing that if Piney Grove was not able to hire a DHEC-approved

operator on its own no later than close of business on May 9, 2005, DHEC would appoint a receiver for the Lloydwood facility, to be approved by the court. Piney Grove failed to meet the deadline and DHEC is now attempting to appoint a receiver for the Lloydwood Subdivision facility.

In addition to the numerous compliance failures at the Lloydwood Subdivision WWTF, Piney Grove has failed to provide safe and adequate services at the Franklin Park Subdivision WWTF, and the Woodforest Subdivision WWTF. At the Franklin Park Subdivision WWTF, there have been numerous and continuing violations since Piney Grove took over operations in 2000. The operations and maintenance inspection, conducted by DHEC on November 17, 2004, rated the WWTF as unsatisfactory for the following reasons: 1) there were no records on-site as required by the NPDES Permit; (2) the chlorination system was not operational and the operator was adding chlorine at an unapproved location; and (3) vegetation was overgrowing lagoon dikes which had been reported on several previous inspections. A written response to the operations and maintenance inspection was requested; however, the response was never received. At the Woodforest Subdivision WWTF, in addition to other numerous permit violations over the years, there was no operator at the facility for a six-week period in 2004. During a February 2005 enforcement conference on the WWTF, it was determined that most of the violations at the facility had not been corrected or had instead been compounded (i.e., sludge at the facility was taken to another WWTF instead of a properly permitted disposal facility). In addition to the numerous violations at the facilities, the Department has asserted orders against Piney Grove that include civil penalties in excess of Four Million Dollars (\$4,000,000).

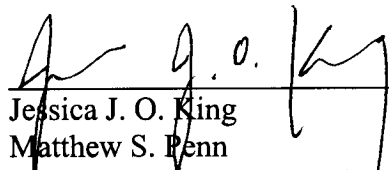
**B. The Grounds of the proposed intervention:**

1. The Department is responsible for regulating discharges of treated wastewater to the environment so that citizens and the environment in the State of South Carolina may be protected.
2. Piney Grove has repeatedly failed to meet the requirements of its NPDES permits at the Lloydwood WWTF, the Franklin Park WWTF, and the Woodforest Subdivision WWTF.
3. The Department has been forced by Piney Grove's failures to comply with its NPDES permit and the laws of the State of South Carolina to put itself in the role of managing the operations of the Lloydwood WWTF and as such has a unique perspective to provide to the Commission.
4. The Department is currently seeking a receiver for the Lloydwood WWTF and if the Commission agrees to seek appointment of a receiver for all of Piney Grove's facilities, the Department wants to ensure consistent and coordinated efforts by itself and the Commission.
5. No other party can raise or defend the Department's position.

**C. The Department's position in the proceeding:**

The Department supports the position of the Office of Regulatory Staff.

Respectfully submitted,



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Jessica J. O. King  
Matthew S. Penn  
Attorneys for South Carolina Department  
for Health And Environmental Control  
2600 Bull Street  
Columbia, South Carolina 29201-1708  
(803)898-3350  
(803)898-3367 (FAX)

May 13, 2005  
Columbia, South Carolina

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION**  
**OF SOUTH CAROLINA**

IN RE: Petition of the Office of Regulatory )	Docket No.: 2005-110-W/S
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Circuit Court for Appointment of a )	
Receiver )	
_____ )	

The undersigned for the South Carolina Department of Health and Environmental Control ("DHEC"), states that she has on May 13, 2005, served upon the necessary parties the **Petition of the South Carolina Department of Health and Environmental Control to Intervene**, via U.S. mail, addressed as follows:

Benjamin P. Mustian, Esquire  
C. Lessie Hammonds, Esquire  
**Office of Regulatory Staff**  
P.O. Box 11263  
Columbia, South Carolina 29211

Louis H. Lang, Esquire  
**Callison, Tighe, and Robinson**  
1812 Lincoln Street, Suite 200  
Columbia, South Carolina 29201

D. Reece Williams, IV, President  
**Piney Grove Utilities, Inc.**  
49 Archdale Street  
Charleston, SSC 29401

  
\_\_\_\_\_  
Angie Gehl

Columbia, South Carolina  
May 13<sup>r</sup>, 2005